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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,151	11/24/2003	Roger A. Pyle	109788.0008	5551
37287	7590	07/08/2004	EXAMINER	
ROETZEL & ANDRESS 1375 EAST 9TH STREET CLEVELAND, OH 44114			RAEVIS, ROBERT R	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/721,151	PYLE ET AL.	
	Examiner	Art Unit	
	Robert R. Raevis	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 15, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11-14, 16-18 and 21-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5-10-04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election of the Species of Figure 7A is acknowledged.

Claims 11-14,16-18,21,22,24,25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 11, is the “device” (line 4) really “*within* the mold wall” (italics added, line 4)? Isn’t it within the mold? Are the “plates” (line 2) “within” (line 2) the “wall”? Aren’t the plates within the mold? Are the “a first mold plate” (line 5) and “a second mold plate” (line 7) the “mold plates” (of line 2)? (Double Inclusion) Presently, the claim calls for a “wall” (line 2) that fits “within” (line 2) *the same* “wall” (line 3). This is not accurate, and is inconsistent with the written specification/drawings.

As to claim 17, how is this figure directed to elected Figure 7A? Elected Figure 7A does not suggest that a protrusion 1242 of the loading device 100 “contacts” (last line) the measuring device IAM. Claim 17 seems to be directed to the embodiment of Figure 17 with “dispensed” (p. 13, line 2) plate.

As to claim 24, how is this claim directed to elected Figure 7A? Elected Figure 7A does not suggest ram in contact with one of the mold plates. Claim 24 appears to be directed to the embodiment of Figure 8, which illustrates a ram R in contact with a mold late MP1.

As to claim 25, how is this claim directed to elected Figure 7A? Elected Figure 7A does not suggest sensors onto two different mold plates. Claim 25 appears to be directed to the embodiment of Figure 8, which illustrates such sensors 60,80.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 23 is rejected under 35 U.S.C. 102(a) as being anticipated by Paakkinen (EP 1 348 942 A2).

Paakkinen teaches (Figures 2,3) a system for measuring a gyration angle in a gyratory compactor which is instrumented (Figure 3) to sense positions of a mold plates 7,8 within a mold M, a loading device 1 positioned in the mold between the mold plates, the loading device having a body with protrusions 17,18 on opposite sides of the body, each protrusion in contact with one of the mold plates.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by TROXLER (Application Brief Measuring the Angle of Gyration on the Troxler Superpave Gyratory Compactor-SGC Using an Internal Angle Measuring Device).

Troxler teaches (p. 3, lowermost figure) a method of measuring internally gyration angle in a mold, including: positioning a device in a mold between two plates, the device having a body with planar ends which contact the plates; positioning a loading device (looks like a vertically oriented rod in the figure) in the mode in contact

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with the upper located mold plate; applying force to cause gyration; and obtaining measurements of angle from the device. Measurements are made during gyration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raemis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 3:30pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert R. Raemis

RAEMIS